



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Delegation of Authority

Notice is hereby given that I have withdrawn the delegations to the Director, Office for Civil Rights (OCR), or their successor, with respect to the Religious Freedom Restoration Act (RFRA) and the Religion Clauses of the First Amendment, as well as any other delegation of authority to OCR with respect to enforcing or complying with RFRA or the First Amendment.

On December 7, 2017, the then-Acting Secretary of the Department of Health and Human Services issued a notice, published on January 19, 2018 (83 FR 2804), that delegated authority for implementation and compliance with the Religious Freedom Restoration Act, 42 U.S.C. 2000bb *et seq.*, within the Department to the Director of OCR.

On January 15, 2021, the Secretary further delegated to OCR authority to receive and investigate complaints, conduct compliance reviews, provide technical assistance and training, evaluate complaint processing and provide reports, and ensure uniform compliance with the Religion Clauses of the First Amendment. This delegation was not published in the Federal Register.

The Department takes its obligations to comply with RFRA and the First Amendment seriously, and it will continue to do so. Department components have the greatest knowledge about their respective programs and are best able to determine whether the Department has a compelling interest in a particular action and whether less restrictive means are available to further that interest, critical aspects of the legal test under RFRA. Furthermore, under the current *Statement of Organization, Functions, and Delegations of Authority* for the Office of General Counsel

(OGC), OGC provides legal advice to the Secretary, Deputy Secretary, and all subordinate organization components of the Department. *See* 85 FR 47228 (July 7, 2020). Department components, in consultation with OGC, have the responsibility, and are best positioned, to evaluate RFRA-based requests for exemptions, waivers, and modifications of program requirements in the programs they operate or oversee.

Department components, further, are best situated to craft exemptions or other modifications when required under RFRA and to monitor the impact of such exemptions or modifications on programs and those they serve. Moreover, they are best positioned to evaluate how their programs must be run to comply with the Free Exercise Clause and the Establishment Clause of the First Amendment.

I therefore rescind the December 7, 2017, and the January 15, 2021 delegations with respect to the Religion Clauses of the First Amendment and/or RFRA, as well as any other delegation of authority to OCR with respect to enforcing or complying with RFRA or the First Amendment. Effective today, I delegate responsibility to Department components to ensure full compliance with RFRA and other constitutional requirements. Department components must consult with OGC on such matters and provide appropriate consideration to RFRA- or Constitution-based objections or requests, as well as take any actions that may be appropriate.

This delegation of authority is effective upon date of signature.

**Xavier Becerra,**  
*Secretary,*  
*Department of Health and Human Services.*